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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,613	10/28/2003	Lillian R. Paolino	P/113-14	6303
7590	02/11/2005		EXAMINER	DANG, HUNG XUAN
Philip M. Weiss Weiss & Weiss 300 Old Country Road Suite 251 Mineola, NY 11501			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/695,613	PAOLINO, LILLIAN R.
	Examiner Hung X Dang	Art Unit 2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 December 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) 1-12 and 16-22 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 13-15 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

Applicant's election without traverse of Group IV, claims 13-15 in the reply filed on 12/29/05 is acknowledged.

**Information Disclosure Statement**

1. If applicant is aware of any relevant prior art, he/she requested to cite it on form PTO-1449 in accordance with the guidelines set forth in M.P.E.P. 609.

**Claims Rejection Under 35 USC - 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hoff (5,406,340).

Hoff discloses infant-to-toddler eye wear including head strap comprises frame (12, 14) for holding two lenses (16, 18), the frame secured to a head by a band, said band secured to the frames by two securing pieces (34 a, 36a) including Velcro is used for both securing pieces and the band can be totally removed from the frame and replaced with other similar band (see figures 3, 4 and the related disclosure.)

**Claims Rejection Under 35 USC - 102**

3. Claims 13-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sadowsky (5,042,094).

Sadowsky discloses eyewear with prosthetic parts for small children comprises frame (30) for holding two lenses (20), the frame secured to a head by a band (40), said band (40) secured to the frames by two securing pieces (42) including Velcro is used for both securing pieces and the band (40) can be totally removed from the frame and replaced with other similar band (see figure 1 and the related disclosure.)

4. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

2/05



HUNG DANG

PRIMARY EXAMINER

TC 2800